

ABILENE CHRISTIAN UNIVERSITY

Educating Students for Christian Service and Leadership Throughout the World

Abilene, Texas 79699 • www.acu.edu • 325-674-2000



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Kenneth R. Pybus
Associate Professor
Student Media Adviser
Abilene Christian University
325-674-2553

August 30, 2013

VIA FEDERAL EXPRESS

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
9300 East Hampton Drive
Capitol Heights, MD 20743

RE: Petition of Abilene Christian University for Exemption from Closed Captioning of Telecasts of Student-Led Sports Show and broadcasts of football games.

Dear Secretary:

Enclosed for filing are an original and two copies of the Petition of Abilene Christian University for Exemption from Closed Captioning of its student-led sports show telecasts and delayed broadcasts of football games pursuant to § 79.1 of the Commission's rules as well as a self-addressed stamped envelope for return of time-stamped copy.

Thank you for your consideration in this matter.

Sincerely,

Kenneth R. Pybus

Enclosures:
Original and two copies of Petition
Self-addressed return envelope

No. of Copies rec'd
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UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION

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CG DOCKET NO. 06-181

CGB-GC-_____

PETITION OF ABILENE CHRISTIAN UNIVERSITY, ABILENE, TEXAS, FOR EXEMPTION FROM
THE COMMISSION'S REQUIREMENTS FOR CLOSED CAPTIONS FOR WEEKLY SPORTS
SHOW AND FOOTBALL GAMES

Abilene Christian University, Abilene, Texas, hereby petitions the Federal Communications Commission ("Commission") for a determination by the Commission that the university's student-produced sports show television programming is exempt from the Commission's rules for closed captioning at 47 C.F.R. § 79.1 (f) promulgated under § 713 of the Communications Act, 47 U.S.C. § 613 ("the "Act") as economically burdensome.

The persons authorized to receive notices and other pleadings in this proceeding are:

Kenneth R. Pybus
ACU Box 27892
Abilene, Texas 79699
Telephone: 325-674-2553
E-mail: kenneth.pybus@acu.edu

Slade Sullivan
ACU Box 29125
Abilene, TX 79699-9125
Telephone: 325-674-2485
E-mail: sls02h@acu.edu

I. BACKGROUND

Abilene Christian University ("ACU") is a private educational institution in Abilene, Texas, with an enrollment of about 4500 students.

For the past several years, students in the university's Department of Journalism and Mass Communication ("JMC") have produced a 30-minute sports-related television show ("sports show") that has been provided to Abilene, Texas, television station KTXS, an ABC affiliate. The student media organization in JMC at ACU is called the JMC Network. KTXS has agreed to broadcast the sports show, typically on Saturday mornings to the Abilene market.

For three years, the show aired under the name "The Chris Thomsen Show," and for the past year, the show aired under the name "The Ken Collums Show." The name is based on the name of the head football coach of the university, who is present during taping of the show and is a primary interview subject for student and accompanying staff hosts. For its entire run, the show has been produced and managed in content and production by students enrolled in the university's JMC department under the guidance and advising of professional faculty and staff members. Students have been and are responsible for planning, producing and directing the show; students co-host the show with the assistance of a university staff member; students produce video packages and gather data for inclusion in the show; and students are responsible for the editing and final delivery of the show. The sports show has aired weekends during the fall for a total of 16-18 shows per year. The show does not have a high viewership, and, in fact, rating and share are small enough not to be measurable on the standard Nielsen broadcast audience measurement ratings system, according to KTXS.

The primary goal of ACU and JMC in producing the show and arranging with the KTXS to distribute the show is to provide students with training opportunities in the mass communication broadcast medium. JMC requires students to participate in at least two semesters of student media operation, for which involvements in creation of the student produced sports show counts. The sports show is produced in the television studio on the campus of ACU in conjunction with several curricular and co-curricular activities. The show is taped on Thursday afternoons and is edited over the next 18-24 hours and delivered to the television station before 5 p.m. the night before its broadcast. Because the students producing the show are still learning their craft, gathering data and video editing are far more time-consuming than at professional media operations.

The sport show seeks out nominal sponsorship from local advertisers interested in supporting student mass communication education, but the revenue from those sponsorships has been either non-existent or minimal each year. For example, revenue from advertising for the upcoming fall 16-episode run of the sports show is expected to be about \$900, which does not cover the minimal salaries paid to those students who participate in the creation of the show.

In addition, the university has agreed with KTXS to air next-day broadcasts of home football games between students at the university and students at other universities. The schedule for the fall of 2013 will include the Sunday broadcast of video of four home games played on Saturday. While members of the athletic department offer sponsorships for the broadcasts, revenue from these broadcasts is minimal, with revenue this fall expected to total about \$250 per game, or a total of \$1,000. The goal is to provide the student athletes with exposure within the small West Texas community and to serve the small number of alumni who continue to live in the community.

The audience for the telecast of the student-produced sports show consists of persons in the city of Abilene and in Taylor County, Texas, the jurisdiction in which Abilene is located, who are familiar with the university's football and athletic operations. Abilene is a small city of about 120,000 people, and the total population of Taylor County is about 130,000 people. The student media operations at ACU do not produce any other television programming other than the weekly sports show in the fall.

II. FACTORS DEMONSTRATING THAT PROVISION OF CLOSED CAPTIONING OF THE ACU TELECASTS WOULD BE ECONOMICALLY BURDENSOME

Under rule 79.1 (f) the Commission must consider four factors in making an economically burdensome determination: (i) the nature of the closed captions for the programming; (ii) the impact on the operation of the provider or program owner; (iii) the financial resources of the provider or program owner; and (iv) the type of operations of the provider or program owner.

1. The nature and cost of the closed captions for programming

Because ACU and JMC does not have necessary encoding software and other equipment to provide closed captions, the nature of adding closed captions for the broadcasts of the sports show would involve the use of third-party services. So adding closed captioning would require hiring a third party to produce a real-time live text version based on a recorded version of the sports show by listening to an emailed audio file. The result would be substantially increased costs on a student-run program that already operates at a loss.

The estimated weekly cost of such services based on quotes from several service providers is between \$150-175 per weekly 30-minute sports show. For the 16 shows expected to be produced by the JMC Network during the fall of 2013, the total cost would be between \$2,400 and \$2,800. This amount far exceeds the total revenue generated by the production of the sports show, which, as has been noted, is expected to be about \$900. This figure already does not cover the cost of student manpower and faculty and staff advising that already is involved in the production of the sports show.

Because the university plans to air only four games during the fall semester, the acquisition of equipment necessary to automate closed captioning would be cost prohibitive. The estimated cost of such services based on quotes from several service providers is between \$800-\$1000 per three-hour football game. For the four shows expected to be broadcast during the fall of 2013, the total cost would be between \$2,400 and \$2,800. This amount far exceeds the total revenue generated by the production of the broadcast, which, as has been noted, is expected to be about \$1000. This figure already does not cover the cost of manpower and equipment that already is involved in the broadcast of the games.

2. The impact on the operation of the provider or program owner

In addition to the costs involved in providing closed captioning for the sports show, a significant impact on the ability of the students to produce the sports show in the time permissible also would be impacted. Sending the sports show to a third-party closed caption service would shorten the already narrow window available for students to produce the 30-minute show. As noted, students tape the show's primary segments during a session on Thursday afternoons, leaving between 18-24 hours for a student editor to compile footage and build informational graphics as part of the pedagogical goals of the program.

The added burden of sending the edited program to a third party for the addition of closed captioning would inhibit the accomplishment of those pedagogical goals. The shortened time period available for shooting, video production, video editing and other functions would lessen the quality of the student product and would reduce the benefit to the students of participation in the creation of the product.

The short window between Saturday games and Sunday broadcasts provide an increased burden on the creation of closed captioning for the three- to four-hour football games. For a couple of the games, the addition of closed captioning would require overnight work, which would increase the cost.

3. The financial resources of the provider or programmer

The sports show is produced by the student media operations in the JMC department at ACU, an organization of students called the JMC Network. Students working as learning journalists in the JMC Network produce a 101-year-old semi-weekly newspaper, the Optimist, and a news website, acuoptimist.com, that features news stories, photos, videos and other coverage of interest to students. The sports show is an extension of that student service with a primarily pedagogical goal.

While the total operations are supported through advertising and sponsorships totaling about \$45,000 to 48,000 per year, the student media operation is at best a break-even operation because of student media salaries and other costs associated with printing and news reporting. For that reason, costs of closed captioning on the sports show, a small fraction of the student media operation, would reasonably be expected to account for more than five percent of the total budget of the student media operation, having an effect beyond the ability to train in broadcast reporting, editing and video production, but also in other areas of pedagogy.

4. The type of operations of the provider or program owner

As has been noted, the production of the sports show is primarily educational in nature and is part of a larger program in JMC to train students in a wide variety of media and mass

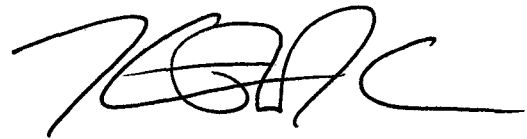
communication arts. The primary goal of the show is to teach mass communications students the skills necessary to produce broadcast-quality programming. That includes such skills as planning and organization, task assignment, writing, editing, studio lighting, video production and many others. No attempt has been made to use the sports show to generate net income, but rather any sponsorships sold simply offset the necessary costs associated with production of a television program.

III. CONCLUSION AND REQUEST FOR RELIEF

Based on the foregoing, information, ACU and JMC believes they are entitled to have the Commission issue a finding and order that its student-produced sports show programming and the broadcast of next-day football games are exempt from the requirements of closed captioning at 47 C.F.R. § 79.1 (f) because providing closed captions for such programming would diminish the pedagogical goals of the sports show, result in a significant difficulty and expense for JMC and the JMC Network student media operation and would be economically burdensome to the university as a whole. Therefore, ACU respectfully requests that the Commission order such relief.

Dated: August 30, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Pybus', with a long horizontal flourish extending to the right.

Kenneth R. Pybus
Department of Journalism and
Mass Communication
Abilene Christian University
Adviser, the JMC Network

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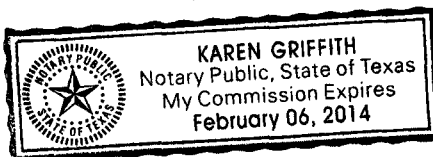
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STATE OF TEXAS §

COUNTY OF TAYLOR §

BEFORE ME, the undersigned Notary Public, on this 30th day of August, 2013, personally appeared Kenneth Pybus, who being first duly sworn on his oath stated that he is an Associate Professor in the Department of Journalism and Mass Communication and faculty adviser of the JMC Network at Abilene Christian University in Abilene, Texas, and that the information stated in the above and foregoing Petition are true and correct based on his personal knowledge.

Karen Griffith 8-30-2013
Notary Public



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CERTIFICATE OF SERVICE

I hereby certify that a true and complete counterpart of this Petition was hand delivered to the station headquarters of KTXS television in Abilene, Texas on August 30, 2013.

A handwritten signature in black ink, appearing to read 'K. Pybus', written over a horizontal line.

Kenneth R. Pybus